UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,144	08/13/2002	Jobst Matthias Muehlbach	5266-05900	8210

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EXAMINER
LIN, JASON K

ART UNIT	PAPER NUMBER
2425	

NOTIFICATION DATE	DELIVERY MODE
07/08/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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PTOL-90A (Rev. 04/07)

Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *06 March 2009*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,8,14-17,19-30,32 and 33* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1,8,14-17,19-30,32 and 33* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on *02 May 2002* is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a) ☒ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is responsive to application No. 10/049,144 filed on 03/06/2009.

Claims 1, 8, 14-17, 19-30, and 32-33 are pending and have been examined.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

03/06/2009 has been entered.

Response to Arguments

3.   Applicant's arguments with respect to **claims 1, 8, 14-17, 19-30, and 32-33** have

been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   **Claims 1, 8, 14, 16, 17, 21, 22, 25, 26, 32 and 33** are rejected under 35 U.S.C.

103(a) as being unpatentable over Brooks et al. (US 5,826,166), in view of Gordon et al.

(US 6,208,335).

Consider **claims 1 and 8**, Brooks teaches a method for an interactive broadcasting system for controlling navigation events between a plurality of services and/or channels (Col 3: line 56 – Col 6: line 36), including at least one interactive decoder (DET - Fig.1; Col 4: lines 4-11), said decoder receiving broadcast applications, applications utilized by the decoder being categorised into at least two types of applications including a first type termed a surfer application for controlling said navigation and having knowledge of said services, and a second type termed a built-in banner (Col 4: lines 21-36, Col 13: lines 34-65, Col 19: lines 18-27, Col 25: lines 45-60 teaches a navigation program(s) stored/downloaded providing user access to interactive services. This is done by downloading navigation application from a VIP {surfer application} to DRAM, or via the OS and resident application {built-in banner}) stored in NVRAM) corresponding wherein the decoder is configured to:

identify in a broadcast stream a surfer application; download the surfer application; detect a navigation event; check whether a first surfer application is available or said decoder is under control of a first surfer application (Col 25: lines 40-60, Col 26: lines 29-35 teaches checking to see if their is a VIP application {surfer application} from the broadcast channel carrying the software data carousel. If there is an application, it is downloaded into DRAM, and then executed by the DET. However, if no application is present DET returns to resident application state for viewing a particular channel);

route said navigation event to the first surfer application, in response to
determining the surfer application is available or the decoder is under control of
the first surfer application (Col 25: lines 53-60; Col 26: lines 29-34, Col 13: lines
15-54); and

route said navigation event to a built-in banner, in response to determining
no surfer application is available and the decoder is not under control of a surfer
application (Col 25: lines 46-53);

wherein the built-in banner comprises an application that is built-in to the
decoder (Col 12: lines 5-6, 35-38, Col 13: lines 57-65) and is configured to:

control navigation events; and present said services to a user (Col
24: lines 34-51; Col 23: lines 19-25, Col 25: lines 46-53).

Kostreski does not explicitly teach wherein the first surfer application is
started in a transparent mode by default.

In an analogous art Gordon teaches, wherein the first surfer application is
started in a transparent mode by default (Col 3: lines 20-30 teaches the graphics
of the OSD layer {first surfer application} can be transparent; Col 7: lines 20-25,
31-40, 46-50, Col 8: lines 1-3 teaches that provided control instructions for a
menu is contained in an applet that defines a transparent OSD. *The applet
downloaded has already predefined how the OSD should be displayed, therefore
the OSD is in transparent mode by default*).

Therefore, it would have been obvious to a person of ordinary skill in the
art to modify Brooks's system to include wherein the first surfer application is

started in a transparent mode by default, as taught by Gordon, for the advantage

of allowing the underlying video that lies beneath the overlay to be seen (Gordon

- Col 3: lines 29-31).

Consider **claims 14 and 22**, Brooks and Gordon teach wherein in

response to detecting said navigation event and determining the decoder is

under the control of the first surfer application, the method further comprises:

the first surfer application entering a visible mode of operation; and

selecting a service corresponding to said navigation event (Brooks – Col 25: lines

53-60, Col 26: lines 29-36).

Consider **claims 16, 17, 25 and 26**, Brooks and Gordon teach the system

and corresponding method wherein the decoder is further configured to present

an interface including a list of surfers that allows the user to select one particular

surfer application from said list and to come back to said list after selection, if

desired (Brooks – Col 25: lines 28-46, 53-60, Col 26: lines 50-57).

Consider **claim 21**, Brooks and Gordon teach the surfer application has a

visible mode of running (Brooks - Brooks – Col 25: lines 53-60, Col 26: lines 29-

36), but does not explicitly teach the surfer application has a transparent mode of

running.

In analogous art, Gordon teaches the surfer application has a transparent mode of running (Col 3: lines 20-30, Col 7: lines 31-35 teaches the graphics of the OSD layer {surfer application} can be transparent).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Brooks and Gordon to include in the surfer application a transparent mode of running, as taught by Gordon, in order to allow the underlying video that lies beneath the overlay to be seen (Gordon - Col 3: lines 29-31).

Consider **claims 32 and 33,** Brooks and Gordon teach the built-in banner is configured to present services without use of a downloaded surfer application (Col 12: lines 5-6, Col 13: lines 54-63, Col 24: lines 34-38, Col 25: lines 46-53 teaches the resident application can be used to present services to the user, and that the application and data in non-volatile memory may be loaded at the factory).

6.   **Claims 15, 23, 24 and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks et al. (US 5,826,166), in view of Gordon et al. (US 6,208,335), and further in view of Ichihashi et al. (US 5,903,262).

Consider **claims 15, 23 and 24**, Brooks and Gordon do not explicitly teach the surfer application is stopped when an application different from the surfer

application is displayed, termed a normal application, and is re-launched when the normal application is finished.

In analogous art, Ichihashi teaches an information guide menu screen that provides different information exchange services for presentation to the user. When the user wishes to terminate the information exchange service, a menu button is pushed, therefor causing the selection menu screen for information exchange having plural selectors to appear again (Col 26: line 45 - Col 27: line 5; Col 31: lines 9-60).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the system of Brooks and Gordon to include stopping the surfer application when another application is displayed, termed a normal application, and re-launching the surfer application upon termination of the normal application, as taught by Ichihashi, in order to give the user the ability to activate and terminate different services through simple manipulation of a controller (Ichihashi - Col 27: lines 23-27).

Consider **Claim 27**, Brooks teaches the system according to claim 23 wherein the decoder is further configured to present an interface including a list of surfers that allows the user to select one particular surfer application from said list and to come back to said list after selection, if desired (Brooks – Col 25: lines 28-46, 53-60, Col 26: lines 50-57).

7.   **Claims 19 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable

over Brooks et al. (US 5,826,166), in view of Gordon et al. (US 6,208,335), and further

in view of Arai et al. (US 2004/0221307).

        Consider **claims 19 and 30**, Brooks and Gordon teach a service browser

method and surfer application (Brooks - Col 4: lines 21-36, Col 13: lines 34-65,

Col 19: lines 18-27, Col 25: lines 45-60 teaches a navigation program(s)

stored/downloaded providing user access to interactive services. This is done by

downloading navigation application from a VIP {surfer application} to DRAM, or

via the OS and resident application {built-in banner}), but do not explicitly teach a

DVB environment and Bouquet Association Tables (BAT).

        In analogous art, Arai teaches a Digital Video Broadcasting (DVB)

environment wherein contents common to the pieces of electronic program

information of all broadcast service providers is prepared in a common electronic

program information preparing unit, for example, a bouquet association table

(BAT). In the BAT, names of channel services of all broadcast service providers,

names of all transport streams including the channel services, and names of

bouquets are described in a list. Each bouquet corresponds to one broadcast

service provider (Paragraph 0219).

        Therefore, it would have been obvious to one of ordinary skill in the art at

to modify the system of Brooks and Gordon to include the service browser

process to be in a DVB environment, and the surfer application to be signaled in

a Bouquet Association Table, as taught by Arai, in order to provide a common

interface to all broadcast service providers, thereby benefiting from the existing

tables (Arai - Paragraph 0219).

8.   **Claims 20, 28, and 29** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Brooks et al. (US 5,826,166), in view of Gordon et al. (US

6,208,335), and further in view of Strauss et al. (US 5,790,173).

Consider **claims 20, 28 and 29**, Brooks and Gordon do not explicitly teach

wherein a memory of the decoder comprises a plurality of surfer caches for

storing corresponding different surfer applications, and selecting one of said

downloaded surfer applications.

In an analogous art Strauss teaches, a memory of the decoder comprises

a plurality of surfer caches for storing corresponding different surfer applications,

and selecting one of said downloaded surfer applications (Col 18: lines 45-51

teaches different applications programs that may be downloaded to the DET for

the user to interact with service providers. Col 23: lines 14-17, Col 25: lines 47-

55, Col 27: lines 55-60 teaches the different types of applications programs)

Therefore, it would have been obvious to a person of ordinary skill in the

art to modify the system of Brooks and Gordon to include wherein a memory of

the decoder comprises a plurality of surfer caches for storing corresponding

different surfer applications, and selecting one of said downloaded surfer

applications, as taught by Strauss, for the advantage of efficiently storing and

providing users with different applications that enable them to easily interact with

services and navigate to selected desired selections for consumption.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to JASON K. LIN whose telephone number is (571)270-

1446. The examiner can normally be reached on Mon-Fri, 9:00AM-6:00PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Brian T. Pendleton can be reached on (571)272-7527. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Lin/
Examiner, Art Unit: 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425